

# **EXHIBIT C**

Trademark Trial and Appeal Board Electronic Filing System. <http://estta.uspto.gov>ESTTA Tracking number: **ESTTA1097843**Filing date: **11/25/2020**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	Impossible X LLC
Granted to Date of previous extension	11/25/2020
Address	1231 CHAMPION FOREST COURT WHEATON, IL 60187 UNITED STATES
Attorney information	DAVID E. WESLOW WILEY REIN LLP 1776 K STREET, N.W. WASHINGTON, DC 20006 UNITED STATES Primary Email: dweslow@wiley.law Secondary Email(s): akosak@wiley.law, tmdocket@wiley.law 2027197000
Docket Number	87252.0016

**Applicant Information**

Application No.	88855875	Publication date	07/28/2020
Opposition Filing Date	11/25/2020	Opposition Period Ends	11/25/2020
Applicant	Impossible Foods Inc. 400 SAGINAW DRIVE REDWOOD CITY, CA 94063 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 043. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Providing information about recipes, ingredients and cooking information; providing an online computer database to consumers featuring information about recipes, ingredients and cooking information

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act Section 2(d)
No bona fide intent to use mark in commerce for identified goods or services	Trademark Act Section 1(b), 44(e) or 66(a)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	4260617	Application Date	03/23/2012
Registration Date	12/18/2012	Foreign Priority Date	NONE
Word Mark	IMPOSSIBLE		
Design Mark			
Description of Mark	The mark consists of the stylized word "IMPOSSIBLE".		
Goods/Services	Class 025. First use: First Use: 2011/09/01 First Use In Commerce: 2011/09/01 Clothing, namely, shirts, t-shirts, tank tops Class 041. First use: First Use: 2011/09/01 First Use In Commerce: 2011/09/01 Providing a website featuring information in the field of personal fitness, endurance athletics, story telling, and adventure activities, namely, bungee jumping, skydiving, trekking, mountaineering, surfing, and kite surfing		

U.S. Registration No.	4624158	Application Date	03/03/2014
Registration Date	10/21/2014	Foreign Priority Date	NONE
Word Mark	IMPOSSIBLE FITNESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2014/01/24 First Use In Commerce: 2014/01/24 Website featuring information relating to exercise and fitness		

U.S. Registration No.	5155646	Application Date	07/26/2016
Registration Date	03/07/2017	Foreign Priority Date	NONE
Word Mark	IMPOSSIBLE X		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2016/03/01 First Use In Commerce: 2016/03/01 search engine optimization and marketing services; marketing consulting in the field of social media		

U.S. Registration No.	5179974	Application Date	07/26/2016
Registration Date	04/11/2017	Foreign Priority Date	NONE
Word Mark	IMPOSSIBLE HQ		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2011/07/22 First Use In Commerce: 2011/07/22 providing a website featuring information relating to exercise and fitness		

U.S. Registration	5376208	Application Date	07/26/2016
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No.			
Registration Date	01/09/2018	Foreign Priority Date	NONE
Word Mark	IMPOSSIBLE		
Design Mark			
Description of Mark	The mark consists of the word "IMPOSSIBLE" in strikethrough format.		
Goods/Services	Class 005. First use: First Use: 2017/08/15 First Use In Commerce: 2017/08/15 nutritional supplements Class 035. First use: First Use: 2012/02/20 First Use In Commerce: 2012/02/20 search engine optimization and marketing services; marketing consulting in the field of social media		

U.S. Registration No.	5387588	Application Date	07/26/2016
Registration Date	01/23/2018	Foreign Priority Date	NONE
Word Mark	IMPOSSIBLE NUTRITION		
Design Mark			
Description of Mark	The mark consists of the word "IMPOSSIBLE" in strikethrough format above "NUTRITION".		
Goods/Services	Class 005. First use: First Use: 2017/08/15 First Use In Commerce: 2017/08/15 nutritional supplements Class 041. First use: First Use: 2012/01/01 First Use In Commerce: 2012/01/01 providing a website featuring information relating to exercise and fitness		

U.S. Registration No.	5576376	Application Date	07/26/2016
Registration Date	10/02/2018	Foreign Priority Date	NONE
Word Mark	DO SOMETHING IMPOSSIBLE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2017/08/15 First Use In Commerce: 2017/08/15 nutritional supplements Class 025. First use: First Use: 2011/09/01 First Use In Commerce: 2011/09/01 Clothing and performance apparel, namely, t-shirts, sweatshirts, pants, shorts, tank tops, yoga pants, tights Class 035. First use: First Use: 2012/03/13 First Use In Commerce: 2012/03/13 search engine optimization and marketing services; marketing consulting in the field of social media Class 036. First use: First Use: 2012/03/13 First Use In Commerce: 2012/03/13 charitable fundraising services		

U.S. Registration No.	5590801	Application Date	08/03/2016
Registration Date	10/23/2018	Foreign Priority Date	NONE

Word Mark	IMPOSSIBLE FITNESS
Design Mark	
Description of Mark	The mark consists of the word "IMPOSSIBLE" in strike through format followed by "FITNESS".
Goods/Services	Class 025. First use: First Use: 2014/01/24 First Use In Commerce: 2014/01/24 Clothing and performance apparel, namely, t-shirts, sweatshirts, pants, shorts, tank tops, yoga pants, tights

U.S. Registration No.	5603025	Application Date	11/16/2017
Registration Date	11/06/2018	Foreign Priority Date	NONE
Word Mark	IMPOSSIBLE FITNESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2014/01/24 First Use In Commerce: 2014/01/24 Clothing and performance apparel, namely, T-shirts, sweatshirts, pants, shorts, tank tops, yoga pants, tights		

U.S. Registration No.	5620625	Application Date	01/15/2018
Registration Date	12/04/2018	Foreign Priority Date	NONE
Word Mark	IMPOSSIBLE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2017/08/15 First Use In Commerce: 2017/08/15 Nutritional supplements Class 025. First use: First Use: 2011/09/01 First Use In Commerce: 2011/09/01 Clothing and performance apparel, namely, t-shirts, sweatshirts, pants, shorts, tank tops, yoga pants, tights and underwear Class 035. First use: First Use: 2012/02/20 First Use In Commerce: 2012/02/20 Search engine optimization for promotion and marketing services; marketing consulting in the field of social media Class 041. First use: First Use: 2011/09/01 First Use In Commerce: 2011/09/01 Providing a website featuring information in the field of personal fitness, endurance athletics, storytelling, and adventure activities, namely, bungee jumping, skydiving, trekking, mountaineering, surfing, and kite surfing		

U.S. Application No.	87884481	Application Date	04/19/2018
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	IMPOSSIBLE		
Design Mark			
Description of Mark	The mark consists of a motion mark. The mark consists of the wording "IMPOSSIBLE" with a shaded band that moves horizontally from the left through the middle of the wording until the band covers the middle of the entire word "IM-		

	POSSIBLE." All on a shaded background.
Goods/Services	Class 025. First use: First Use: 2012/05/29 First Use In Commerce: 2012/05/29 clothing and performance apparel, namely, t-shirts, sweatshirts, pants, shorts,tank tips, yoga pants, tights and underwear Class 041. First use: First Use: 2012/05/29 First Use In Commerce: 2012/05/29 Providing a website featuring information in the field of personal fitness, endurance athletics, storytelling and adventure recreational activities

Attachments	88855875 IMPOSSIBLE - Notice of Opposition 4844-6982-6514 v.2.pdf(129043 bytes )
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Signature	/David E. Weslow/
Name	DAVID E. WESLOW
Date	11/25/2020

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

IMPOSSIBLE X LLC,

Opposer,

v.

IMPOSSIBLE FOODS INC.,

Applicant.

**E-FILING**

Opposition No.: \_\_\_\_\_

Application No.: 88855875

Mark: IMPOSSIBLE

**NOTICE OF OPPOSITION**

Impossible X LLC, a limited liability company organized and existing under the laws of the state of Illinois (“Impossible X”), believes that it will be damaged by Application No. 88855875 as it relates to all services identified therein.

As grounds for opposition, Impossible X hereby alleges:

1. Impossible X adopted the IMPOSSIBLE mark in 2010 and has continually used the mark, and a family of IMPOSSIBLE formative marks (including, without limitation, IMPOSSIBLE ADVENTURES, IMPOSSIBLE IS, IMPOSSIBLE ISLAND, and IMPOSSIBLE TRI, IMPOSSIBLE FITNESS, IMPOSSIBLE X, IMPOSSIBLE HQ, and IMPOSSIBLE NUTRITION), in U.S. commerce to provide a wide range of goods and services, including apparel, fitness products, nutritional supplements, consulting services, and philanthropic services (collectively the “IMPOSSIBLE Marks”).

2. Impossible X has used the IMPOSSIBLE Marks in association with nutrition, food, and cooking resources since 2010 including publication of guides to different foods, ingredients, diets, and recipes.

3. Impossible X has used the IMPOSSIBLE Marks in association with the

development and operation of software applications directed to health, fitness, food lists, and recipes including the popular “Paleo.io” diet food list app and “Paleo Recipe Pro” recipe app.

4. Impossible X will rely upon its common law rights in and to the family of IMPOSSIBLE formative marks in addition to those federally registered rights identified herein.

5. The relevant purchasing public recognizes that each of Impossible X’s IMPOSSIBLE formative marks is indicative of the common origin of the goods and/or services provided by Impossible X through use of its family of IMPOSSIBLE formative marks.

6. Impossible X has registered many of the marks from its family of IMPOSSIBLE Marks (IMPOSSIBLE, IMPOSSIBLE FITNESS, IMPOSSIBLE X, IMPOSSIBLE HQ, IMPOSSIBLE, IMPOSSIBLE NUTRITION) with registrations issued as early as December 18, 2012.

7. Impossible X is the owner of incontestable U.S. Registration No. 4260617 for the mark IMPOSSIBLE, registered on December 18, 2012. Impossible X first used the IMPOSSIBLE mark on September 1, 2011, for “[c]lothing, namely, shirts, t-shirts, tank tops” and for “[p]roviding a website featuring information in the field of personal fitness, endurance athletics, story telling, and adventure activities, namely, bungee jumping, skydiving, trekking, mountaineering, surfing, and kite surfing.”

8. Impossible X is the owner of U.S. Registration No. 4624158 for the mark IMPOSSIBLE FITNESS, registered on October 21, 2014. Impossible X first used the IMPOSSIBLE FITNESS mark on January 24, 2014, for a “[w]ebsite featuring information relating to exercise and fitness.”

9. Impossible X is the owner of U.S. Registration No. 5155646 for the mark IMPOSSIBLE X, registered on March 7, 2017. Impossible X first used the IMPOSSIBLE X mark



on March 1, 2016, for “search engine optimization and marketing services” and for “marketing consulting in the field of social media.”

10. Impossible X is the owner of U.S. Registration No. 5179974 for the mark IMPOSSIBLE HQ, registered on April 11, 2017. Impossible X first used the IMPOSSIBLE HQ mark on July 22, 2011, for “providing a website featuring information relating to exercise and fitness.”

11. Impossible X is the owner of U.S. Registration No. 5376208 for the mark IMPOSSIBLE, registered on January 9, 2018. Impossible X first used the IMPOSSIBLE mark on February 20, 2012, for both “search engine optimization and marketing services” and “marketing consulting in the field of social media;” and on August 15, 2017, for “nutrition supplements.”

12. Impossible X is the owner of U.S. Registration No. 5387588 for the mark IMPOSSIBLE NUTRITION, registered on January 23, 2018. Impossible X first used the IMPOSSIBLE NUTRITION mark on January 1, 2012, for “a website featuring information relating to exercise and fitness;” and August 15, 2017, for “nutritional supplements.”

13. Impossible X is the owner of U.S. Registration No. 5576376 for the mark DO SOMETHING IMPOSSIBLE, registered on October 2, 2018. Impossible X first used the DO SOMETHING IMPOSSIBLE mark on September 1, 2011, for “[c]lothing and performance apparel, namely, t-shirts, sweatshirts, pants, shorts, tank tops, yoga pants, tights, and underwear;” on March 13, 2012, for “search engine optimization and marketing services,” “marketing consulting in the field of social media,” and “charitable fundraising services;” and on August 15, 2017, for “nutritional supplements.”

14. Impossible X is the owner of U.S. Registration No. 5590801 for the mark IMPOSSIBLE FITNESS, registered on October 23, 2018, for “[c]lothing and performance apparel,

namely, t-shirts, sweatshirts, pants, shorts, tank tops, yoga pants, tights, and underwear.”

15. Impossible X is the owner of U.S. Registration No. 5603025 for the mark IMPOSSIBLE FITNESS, registered on November 6, 2018, for “[c]lothing and performance apparel, namely, t-shirts, sweatshirts, pants, shorts, tank tops, yoga pants, tights, and underwear.”

16. Impossible X is the owner of U.S. Registration No. 5620625 for the mark IMPOSSIBLE, registered on December 4, 2018. Impossible X first used the IMPOSSIBLE mark on September 1, 2011, for “clothing and performance apparel, namely, t-shirts, sweatshirts, pants, shorts, tank tops, yoga pants, tights and underwear” and for “[p]roviding a website featuring information in the field of personal fitness, endurance athletics, storytelling, and adventure activities,” on February 20, 2012, for “search engine optimization for promotion and marketing services” and “marketing consulting in the field of social media;” and on August 15, 2017, for “nutritional supplements.”

17. Impossible X is the owner of U.S. App. No. 87884481 for the animated mark IMPOSSIBLE, filed on April 19, 2018. Impossible X first used the animated IMPOSSIBLE mark on May 29, 2012, for “clothing and performance apparel, namely, t-shirts, sweatshirts, pants, shorts, tank tips, yoga pants, tights and underwear” and for “[p]roviding a website featuring information in the field of personal fitness, nutrition, endurance athletics, storytelling, adventure activities, and self-improvement.”

18. The application opposed herein was filed by Impossible Foods Inc. (“Applicant”) on April 1, 2020, on an intent-to-use basis and was assigned Application Serial No. 88855875 by the U.S. Patent and Trademark Office.

19. Application Serial No. 88855875 is directed to the mark IMPOSSIBLE (“Applicant’s Mark”) in association with the following services:

International Class 043: Providing information about recipes, ingredients and cooking information; providing an online computer database to consumers featuring information about recipes, ingredients and cooking information.

20. The overall commercial impression of Applicant's Mark is identical and/or highly similar to the IMPOSSIBLE Marks.

21. The services identified in the application opposed herein are identical and/or closely related to services provided by Impossible X for many years through use of the IMPOSSIBLE Marks.

22. Upon information and belief, neither Applicant nor any predecessor or entity related to Applicant has any constructive or actual right in the Applicant's Mark prior to the filing date of the application opposed herein.

23. There is no issue of priority. Impossible X has priority by virtue of its longstanding and continuous use and registration of the IMPOSSIBLE mark and family of IMPOSSIBLE Marks well before any bona fide use by Applicant of the Applicant's Mark and well prior to the filing date of the application opposed herein.

24. Concurrent registration of Applicant's Mark by Applicant in association with the opposed services would result in irreparable damage to Impossible X as consumers would be likely to believe, mistakenly, that Applicant's registered Applicant's Mark is affiliated with or approved by Impossible X.

25. Concurrent registration of the mark of opposed Application Serial No. 88855875 in association with the opposed services would result in irreparable damage to Impossible X as consumers would be likely to consider the services offered under the registered mark as emanating from Impossible X, and purchase such services, resulting in a loss of sales to Impossible X.

26. If Applicant is permitted to obtain registration of the Applicant's Mark in association with the opposed services, confusion within the meaning of Section 2(d) of the Trademark Act (15 U.S.C. § 1052(d)) is likely to result, to the detriment of Impossible X.

27. The bona fides of the Applicant's intent-to-use the Applicant's Mark in U.S. Commerce in association with the services recited in the application are not apparent from the materials of record in Application Serial No. 88855875. Impossible X therefore challenges the same and leaves the Applicant to its proofs regarding the nature and sufficiency of its intent-to-use.

WHEREFORE, Impossible X requests that Application Serial No. 88855875 be rejected in its entirety, that no registration be issued in connection with the opposed services of the application, and that this opposition be sustained in favor of Impossible X.

Respectfully submitted,



Date: November 25, 2020

By: /s/  
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